

REMARKS

Claim 1 has been amended. Claims 1-4 and 71-72 are still pending in the present application. Entry of the amendments, and reexamination and allowance of the pending claims are respectfully requested.

Claim 1 has been amended to clarify the recitations regarding the material that covers the frame members. This amendment is not made to overcome the prior art rejection.

Price

Claims 1-4 and 71 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,676,168 to Price ("Price"). This rejection is respectfully traversed.

To support the rejection, the Examiner states that FIG. 4 of Price shows that:

"... the end edges of the second upper panel (10) is coupled substantially parallel to the outer periphery of the first base panel which is considered to extend beyond (inside) the outer periphery of the first base panel as claimed ..." [emphasis added].

In other words, the Examiner is interpreting the end edges (i.e., one end edge is defined by 42 in FIG. 4 of Price) of the top frame 10 to "extend beyond the outer periphery of" the first base panel, which is defined by the base loop 14, even though the Examiner acknowledges that the upper loop 18 of the top frame 10 actually extends "inside" the outer periphery of the base loop 14.

Applicant respectfully submits that the Examiner is not interpreting the claim terms using normal conventional English language. Specifically, claim 1 recites that "the first and second end edges extend beyond the outer periphery of the first panel", but the Examiner is interpreting the word "beyond" as having the same meaning as "inside". Applicant respectfully submits that it is not proper to use such an interpretation because "inside" and "beyond" have two entirely different meanings. However, to further clarify the claim subject matter, Applicant is amending claim 1 to change the word "beyond" to "outside". It is respectfully submitted that this amendment is not being made to distinguish Price because both the words "beyond" and "outside" have similar meanings in the context of the limitation in question.

In light of the above, claim 1, and claims 2-4 and 71-72, are submitted to be allowable over Price.

McLeese and Zheng '915

Claims 1-4 and 71-72 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. Des. 341,407 to McLeese ("McLeese") in view of U.S. Patent No. 5,778,915 to Zheng ("Zheng '915"). This rejection is respectfully traversed.

The Examiner acknowledges that McLeese does not teach "the opposite end edges of the second upper panel each being coupled to the outer periphery of the first base panel by an interconnecting piece that causes the end edges of second upper panel [to be] spaced apart and extending beyond the outer periphery of the first base panel." To compensate for this deficiency in McLeese, the Examiner cites Zheng '915 as disclosing interconnecting pieces 37, 37a, 37b that are used to extend the edges 80a and 82a of the panels 72b and 72e, respectively, in FIG. 7 beyond the outer periphery of the base panel 72a, and asserts that the pieces (H) in McLeese can be modified by the interconnecting pieces 37, 37a, 37b in Zheng '915.

Applicant respectfully submits that McLeese and Zheng '915 cannot be combined because their respective teachings would not lead a person skilled in the art ("the skilled person") to the structure claimed in claim 1.

First, the pieces labeled (H) by the Examiner in McLeese cannot correspond to the claimed first and second interconnecting pieces because the pieces (H) do not couple the end edges of the second (upper) panel to the outer periphery of the first (base) panel. As best shown in FIGS. 1 and 2 of McLeese, the pieces (H) couple the side edges of the upper panel to the outer periphery of the base panel. In addition, the end edges of the upper panel in McLeese are rounded at a curved point (see FIG. 2), so it would not be practical or feasible to couple an interconnecting piece to the end edge of the upper panel since one would then have a very thin piece of material that connects the rounded end edge of the upper panel to the outer periphery of the base panel. The very thin piece of material would break because it could not support the forces between the upper panel and the base panel. **Thus, this configuration (i.e., the location of the pieces H and the shape of the end edges of the upper panel) ensures that the end edges of the upper panel cannot extend beyond the outer periphery of the base panel.**

This distinction is very important because it will have a significant impact on what the skilled person can do when attempting to combine the teachings of McLeese and Zheng '915. Specifically, even when the skilled person starts with McLeese and then encounters Zheng '915, this person would not know how to modify McLeese to obtain the claimed structure.

For example, in order to modify McLeese's structure to provide the end edges of the upper panel extending beyond the outer periphery of the base panel (as allegedly taught by Zheng '915), the skilled person would need to (i) change the locations of the pieces (H), and (ii) change the rounded shape of the end edges of the upper panel. However, there is no teaching, suggestion or incentive in either McLeese or Zheng '915 to make these modifications. In other words, if the skilled person were to use McLeese as a starting point, why would this skilled person want to modify McLeese's structure to provide the end edges of the upper panel extending beyond the outer periphery of the base panel, and why would this skilled person want to make the changes (i) and (ii)?

In addition to the above, using Zheng '915 as a starting point would not help the skilled person either. Consider the relevant teachings in Zheng '915:

1. Zheng '915 teaches, in FIGS. 3A-3F, different ways to hingedly connect the sides of two adjacent panels. Zheng '915 does not specifically state that any of these connections would cause an upper panel to extend beyond the outer periphery of a base panel. In fact, as shown in FIGS. 3B, 3C and 3D, it is possible for the base panel to extend inside the outer periphery of the base panel, a point which is acknowledged by the Examiner on the second line from the bottom of page 4 of the Office Action.
2. None of the embodiments in FIGS. 1, 6 and 7 provide a single upper panel, since they all have at least two upper panels. Providing a single upper panel that is coiled or tensioned (as in the present invention) involves different mechanics and forces when compared to providing a plurality of upper panels that do not experience any tensioning or coiling.

Given these teachings, if the skilled person uses Zheng '915 as a starting point, this person would have no incentive to want to modify the structures in Zheng '915 to provide only a single upper panel (as taught by McLeese). In addition, even if the skilled person were to modify the structures in Zheng '915 to have only a single upper panel, the tensioning and coiling forces experienced by the single upper panel would likely cause the end edges of that single upper panel to lie inside of the outer periphery of the base panel, which is a possibility that FIGS. 3B, 3C and 3D would allow for.

It appears that the Examiner is selecting the various limitations of claim 1 in piecemeal fashion from different prior art references in order to sustain the rejections. However, Applicant respectfully submits that this constitutes impermissible hindsight reconstruction, and fails to consider exactly what the skilled person would be thinking

when this person considers the cited references side-by-side.

Finally, responding briefly to the points made by the Examiner on pages 4-5 of the Office Action, Applicant notes that the Examiner did not address the fact that all of the embodiments in FIGS. 1, 6 and 7 of Zheng '915 provide two or more upper panels, and not a single upper panel. As explained above, this is a significant point that involves important engineering considerations that would lead the skilled person away from the suggested combination.

In light of the above, claim 1, and claims 2-4 and 71-72, are submitted to be allowable over the combination of McLeese and Zheng '915.

General Comments

In light of the above reasons, claim 1, and claims 2-4 and 71-72 depending therefrom, are submitted to be in condition for allowance.

Applicant notes that claim 1 has been rejected four times now. Applicant has spent a lot of time and money trying numerous amendments to appease the Examiner's desire for language that can sufficiently distinguish claim 1 from the combination of McLeese and Zheng '915, but Applicant now invites the Examiner to suggest how Applicant might put claim 1 into condition for allowance. After all, it is now clear that claim 1 is novel in its recitation of a single top panel having end edges that extend outside the outer periphery of the first base panel. None of the cited prior art teach or suggest this. In addition, the Examiner is very familiar with the prior art. Also, Applicant cannot "guess" at what language the Examiner is looking for. Therefore, the Examiner is in the best position to suggest language that she believes would bring out the very clear distinction between the claim and the cited prior art.

In light of the above, entry of the amendments, and allowance of all pending claims is respectfully solicited.

Respectfully Submitted,



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